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Contempt Action May Prompt Defender to Bow Out

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Federal Public Defender Michael Levine said he may not seek appointment because of contempt action against his office by U.S. Judge Harold Fong.

Fong filed contempt complaints against Levine and his attorney, Brian Tamanaha, for allegedly violating court orders during the Ronald Rewald fraud trial.

Fong also fined Tamanaha \$100 for asking that some motions be reconsidered without submitting new supporting evidence.

"My feeling is deep concern, anxiety and disappointment," Levine said about the contempt charge.

A hearing will be held Dec. 10

during which Levine and Tamanaha will have to say why they should not be held in contempt. Rewald, who was convicted of 64 counts of fraud, perjury and tax evasion, will be sentenced Dec. 9.

LEVINE SAID he does not know which judge will handle the contempt hearing. Fong has said he will refer the matter to another judge. Levine said he and Tamanaha will be represented by attorney Brook Hart.

Fong appointed Ted Greenberg, who had been part of the Rewald prosecution team, to represent the government in the contempt hearing.

Levine said he is bothered both by the timing of the hearing and with the choice of the prosecutor.

"It is very troubling that the

contempt hearing should be held the day after (Rewald's sentencing) and with the very prosecutor who prosecuted Rewald," Levine said. "The message to me is that me and Tamanaha are to be treated like Mr. Rewald."

Because of the contempt action against his office, Levine said, he is thinking about dropping out as public defender. Levine's four-year term expires in August 1986. At that time, it will be up to the 9th U.S. Circuit Court of Appeals in San Francisco to reappoint him or appoint another public defender.

LEVINE WAS named Hawaii's first federal public defender in 1982.

He said he is disturbed by the fact that Fong would take action against the public defender's office, which has handled more

than 1,300 cases "without a blemish."

"And then to volunteer to represent a person (Rewald) who is despised by the community," Levine said. "And after doing this, having to face trial and be prosecuted."

Levine said lawyers found in contempt usually are fined. But he acknowledged the judge could impose some prison term. "I suppose I could be joining Ron," he said.

Rewald is being held in prison without bail while awaiting sentencing.

"I certainly would hope the court would not impose a harsh punishment," Levine said.

Tamanaha would only say he is "disheartened by the entire thing."

SPECIFICALLY, Fong charges that the two defense attorneys violated his orders by:

✓ Having CIA agent John Mason sign a subpoena. The defense wanted a sample of Mason's handwriting to see if he actually was the man who had signed Rewald to a CIA secrecy oath.

Fong, however, had denied a defense request that Mason be forced to give a handwriting sample. When Mason left the courtroom after testifying, an

investigator for the public defender's office served him with a subpoena and asked him to sign it. A subpoena need not be signed.

✓ Interrupting the cross-examination of defense witness Ralph McGehee and demanding a ruling. McGehee, a former CIA agent, testified he thought he had been cleared to travel to Cuba after his retirement by Assistant U.S. Attorney John Peyton.

Peyton had worked as a lawyer, but Fong ruled the lawyer did not need to know that Peyton was the head of the prosecution team.